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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/613,354	07/03/2003	Dominic Paratore	851-167.1	8714

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EXAMINER

COMSTOCK, DAVID C

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/613,354

**Applicant(s)**

PARATORE ET AL.

**Examiner**

David Comstock

**Art Unit**

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>19 February 2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Gueret (5,020,551; cited by applicant).

Gueret discloses a mascara brush 1 comprising a plurality of multi-fiber bristles 2 extending from a core 3 (see Fig. 1). The bristles are ground such that their ends comprise a plurality of smaller diameter, less stiff additional fibers about the central core (see Figs. 1 and 11 and col. 4, lines 29-30). These smaller bristles are in supportive interengagement with each other about the central support fiber from which they extend. The fibers comprise natural and synthetic fibers and different diameters (see col. 6, lines 16-27). The central support fibers are stiffer than the additional fibers (col. 5, lines 58-59). The central support fibers are formed within the range of .003 inches to .012 inches (0.08 mm to 0.3 mm) in diameter (see, e.g., col. 4, lines 44-46). With regard to claim 9, it is noted that the additional fibers are formed from individual fibers that have been made to have an even smaller diameter by being "finely shredded" at their ends (see col. 4, lines 28-32). Thus, the additional fibers can be considered microfibers because they possess a diameter or effective denier that is tantamount to microfiber.

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Furthermore, because the additional fibers are "finely shredded," they are inherently woven, i.e. overlapping or twisted, at least within a broadest reasonable interpretation, due to the necessarily random positioning of the fibers that would result from the grinding process, due to their fine diameter, and due to their hooked ends that would intertwine and overlap each other (id.).


### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Comstock whose telephone number is (703) 308-8514.



D. Comstock  
30 September 2004



EDUARDO C. ROBERT  
PRIMARY EXAMINER